II. Settlement and Demarcation.

C. DUTIES OF A FOREST SETTLEMENT OFFICER—*concluded.*

Help to be given by the Collector and his Assistants to the Forest Settlement Officer.

133. The Collectors and their Assistants in charge of tálukas are to the utmost of their powers to co-operate with the Forest Settlement Officer so as to facilitate the progress of his settlements and prevent undesirable delay in their completion.

The Forest Demarcation Officer should consult the Divisional Forest Officer.

134. It is essential that the Forest Settlement Officer should, when preparing the demarcation scheme, work in consultation with the Divisional Forest Officer.*

Duties of District Officers with regard to settlement.

135. District Officers should consider it to be their duty to bring to the notice of Forest Settlement Officers the existence of any rights likely to be overlooked.†

The extent to which rights should be inquired into.

136. As regards inquiries by Forest Settlement Officers into rights, it is sufficient if full and clear notice is given as required by the Forest Act. It is no part of the duty of these officers to hunt up imaginary claims for decision or to put up people to making claims they never dreamt of. As a British Officer the Forest Settlement Officer will of course take care that no stupid, ignorant man is injured by his claims not being considered, but beyond this he is not required to go.‡

Relating to privileges.

Rights cannot be admitted in one place simply because they exist in another.

137. As regards privileges, a Forest Settlement Officer may make such recommendations as the circumstances seem to him to justify or necessitate, but the question of privileges must be kept entirely separate from that of rights, and no rights should be admitted except those which are satisfactorily established. It cannot be allowed that the fact that certain rights have been proved or admitted in certain tálukas furnishes of itself sufficient evidence or authority to warrant a Forest Settlement Officer in ruling that those rights must be granted in other talukas. The Forest Settlement Officer is required in each case to take the facts as he finds them and to admit rights only where he finds their existence proved. He cannot admit rights in one táluka simply because they have been admitted in another.§

D. Nature of Rights.

Classification rights.

138. (i) Right of way and right to a water-course are included in the rights referred to in section 9 of the Indian Forest Act.

* Government Resolution No. 17, dated 4th January 1889.
† Government Resolution No. 9305, dated 24th November 1884.
‡ Government Resolution No. 409, dated 17th January 1883.
§ Government Resolution No. 2051, dated 12th March 1883.

II. Settlement and Demarcation.

D. NATURE OF RIGHTS—*continued.*

(ii) The Forest Settlement Officer is appointed to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within the specified limits of the proposed forests, and to deal with the same as provided in Chapter II.

Classification of rights.

(iii) The rights so contemplated are classed as follows :—

(1) Right of pasture.

(2) Right of forest produce.

(3) Right of way.

(4) Right of water-course.

(5) All other rights in or over any land.

Section 10 provides how the Forest Settlement Officer shall deal with the last class of rights.

Sections 11, 12, 13, 14 and 15 provide how the Forest Settlement Officer shall deal with the first and second classes of rights.

The third and fourth classes relate to certain incorporeal hereditaments or easements attaching to the land which is the property of Government. It is obvious that when once after due inquiry a claim to any such right is admitted, or when once the existence of any such right is discovered, the fact of the right is sufficiently established.

(iv) It is clearly the intention of the Legislature that all existing rights of way or to water-courses should be carefully ascertained and preserved intact, unless it is found convenient to stop such ways or water-courses and substitute others for them, as provided in section 24.*

139. It is the duty of the Forest Settlement Officer to enquire into the existence of rights of way as well as any other rights, even if they are not claimed, and necessarily to define in his proceedings whether they are public or private, high roads, cart-tracks or bye-paths. No right of way thus defined and admitted can be afterwards stopped without the previous sanction of the Local Government and until a reasonably convenient substitute has been provided. The provisions of the Act are most distinct and careful, and His Excellency in Council desires that they may be most strictly followed by all officers concerned in forest settlement and management. Any vexatious and illegal interference with forest rights or rights of way in forests will be visited with the severest displeasure of Government.†

Relating to rights of way.

Procedure to be followed in defining rights of way.

139a. In awarding rights of way the following particulars should be recorded under the following distinct heads by Forest Settlement Officers :—

* L. R. No. 565, dated 9th May 1881, *vide* Government Resolution No. 3112, dated 31st idem.
† Government Resolution No. 3112, dated 31st May 1881.

II. Settlement and Demarcation.

D. NATURE OF RIGHTS—*concluded.*

(i) in whom the right vests, namely, (*a*) the general public, (*b*) the inhabitants of any particular village or villages, to be named, (*c*) any private person or persons, to be specified by name;

(ii) the nature of the right, whether for men, animals or carts—a roadway, cart-track or path;

(iii) the width of the roadway or pathway; and

(iv) whether the way is marked on the village survey map or not. When the way is so marked, it should be distinctly decided that the way will lie along the route so marked. If for special reasons diversion is allowed, such diversion should be specified and its locality indicated as nearly as may be feasible, without actual survey.*

E. Nature of compensation to be made in commuting rights.

Various ways of commuting rights.

140. There is no objection to the commution, where necessary, by the Forest Settlement Officer of rights either by the payment of a lump sum, or by a cash allowance, or by remission of judi, or by giving land revenue free; but a cash payment would in most instances be most advisable in the interest of Government.†

Definition of the meaning of the Act regarding commuting rights.

141. The commutation of rights provided for in section 15 of the Act was intended to be, and according to the true construction of the terms of the section, is an extinguishment of the right commuted, for the consideration mentioned just as by section 10, an absolute surrender (sub-clause 2), or complete and permanent acquisition (sub-clause 3) of the rights dealt with by that section, are provided for. This view is supported by the terms of section 26, which appear to assume the operation of the Act on forest rights to be limited to extinguishment or absolute acquisition of the same, and by the fact that nowhere in the Act is there any trace of an intention that forest right should, under its provisions, be suspended or temporarily taken up by Government. The expression at the end of section 15 "in such other manner as he thinks fit" may be construed as having reference only to the consideration to be paid or given for the right commuted and these words cannot properly be interpreted as in any degree amplifying or affecting the meaning of the word "commuting" which must be read in its ordinary signification of exchanging, out-and-out and permanently. There seems no reason why a cash allowance, either permanent or temporary, and terminable at a fixed period or on the expiry of one or more lives, should not form the consideration for the commutation (*i. e.* permanent acquisition) of rights under section 15. The granting of such allowances, either permanent or temporary, in lieu of the rights commuted would be within the scope of the words "in such other manner as he thinks fit," at the close of the section, and no rule appears to me to be necessary to warrant the adoption of this course. There can be few forest rights for the permanent acquisition

* Government Resolution No. 8344, dated 22nd August 1907.
† Government Resolution No. 1190, dated 9th February 1885.